

SECTION D: PUBLIC SAFETY

Department of Corrections

Pressures and Potential Pressures

The Department of Corrections (DOC) utilizes both state owned and private contracted facilities to house and transition offenders back into society. In FY 2017, DOC expended \$198.0 million for the custody and care of an average population of 14,475 offenders. Almost half or \$92.1 million was paid to private providers.

During the last four years, the department has seen an average growth in expenditures of 3.6%. It should be noted that growth occurring during FY 2017 showed a marked reduction compared to the last four years, measuring only 0.7%. This is the result of a combination of:

- Cost control measures implemented by the department
- The 2015 Legislature capping rates for housing state offenders in county jails at \$69/day

In addition, the 2017 Legislature passed a packet of bills² aimed at reducing the criminal justice system costs while improving outcomes. Based on these facts, a 0.5% growth factor was used to calculate a caseload adjustment of \$3.0 million for the 2021 biennium. Alternatively, a 1.5% growth of \$9.0 million was also calculated as a potential pressure. It should be noted that caseload adjustments for some other state agencies are included as present law adjustments but historically DOC has included caseload as a new proposal in its budget submission and thus it is included as a pressure in this report.

The executive has historically requested funding to increase rates for providers. Included as a budget pressure, each 1% increase in the costs paid to contracted providers of DOC is about \$2.2 million over the biennium.

Office of Public Defender

Present Law

Expenditures in the Office of the Public Defender (OPD) are partially based on cases requiring defense in court in a given year. The five year average for caseload increases year to year (FY 2013 through FY 2017) is 3.8%. In FY 2017, there were 37,126 cases in OPD. Using average caseload growth an additional 3,078 cases are projected for the 2021 biennium and \$4.6 million in additional funding is included in present law.

Pressures and Potential Pressures

Although the caseload five year average has been 3.8%, the average growth in expenditures for OPD is 10.6% during the same five year period. Due to this high expenditure growth, the agency has requested and received supplemental appropriations. For example, in FY 2017 OPD received an additional \$1.7 million in supplemental appropriation authority in HB 2. The appropriations for FY 2018 and FY 2019 are \$32.8 million and \$32.2 million, respectively. OPD requested a \$3.0 million fiscal year transfer in FY 2018 and has indicated they will be requesting a supplemental appropriation of \$8.0 million at the start the next legislative session. Based on expenditure growth, there may be a pressure to provide an additional \$10.0 million in the 2021 biennium.

² The Commission on Sentencing (Commission) conducted a broad study of Montana's criminal-justice system practices during the 2015-2016 interim. The Commission forwarded 12 bills to the 2017 Legislature for its consideration; of those 12, nine were enacted. Several of the bills created new programs or responsibilities for existing agencies with the intent of better outcomes and reduced costs. Collectively the new bills are referred to as the criminal justice reinvestment package and are projected by those working for the Criminal Justice Council to have a cost avoidance of approximately \$69 million over the next seven years.

A portion of the pressure for additional expenditure growth is due to capital (death penalty) cases. No funding currently exists for defense in capital cases. In previous biennia, the legislature has provided restricted and one time only funding of \$1.0 million to fund capital defense. With the possibility that a prosecutor may seek the death penalty, the legislature may encounter pressures to fund capital defense.

SECTION E: EDUCATION

Office of Public Instruction

General fund to support K-12 education is forecast to increase primarily through present law adjustments totaling \$85.7 million for the 2021 biennium, in addition to \$5.1 million in current service level and pressures.

Present Law

The amount of present law growth is unusually high this biennium. This is due to the fact that while \$39.8 million is attributable to standard growth components, \$45.9 million is higher due to legislation requiring certain components of funding to be removed from K-12 funding in FY 2019 and then return as present law funding in the 2021 biennium. A summary of the components increasing present law is shown in the table below. The increase is almost entirely due to K-12 funding; however, there is \$0.7 million for the operation of OPI included in the all other category for personal services and operating adjustments.

Office of Public Instruction Present Law Detail (\$ Millions)			
Component	Funding Return	Standard Growth	Total
BASE Aid	(GTB increase)	\$14.9	\$14.9
	(Inflation)	\$21.1	21.1
	(ANB growth/other)	14.6	14.6
	Total BASE Aid	14.9	35.6
New NRD Facilities Payment (2017 Session)			
	11.6	2.4	14.0
School Facility and Technology Sweep (20-9-516 MCA)			
	9.6		9.6
SB 261 Suspension of Data for Achievement			
	6.4	0.5	6.8
Transportation (block grant switch & growth)			
	3.4	0.4	3.8
All Other			
		0.9	0.9
Total (Including BASE Aid)			
	\$45.9	\$39.8	\$85.7

The largest present law increase in school funding occurs in BASE Aid. This is split into three large categories, the GTB increase, inflation, as well as Average Number Belonging (ANB) which has other smaller adjustments included. These BASE Aid categories are discussed in further detail below.

BASE Aid (Change in GTB Percentage)

The largest return funding factor, \$14.9 million over the biennium, increasing present law funding is the statutory change in the guaranteed tax base (GTB). HB 647 (2017 Session) eliminated block grant payments to school districts beginning in FY 2018, resulting in higher local property taxes for schools and reducing state general fund pressure. These increases to local property taxes under present law are phase out and offset by increased state GTB funding. This results in increased state payments to schools, and reductions in local property tax payments to schools. In the following chart, the reduced portion of local taxes can be seen in blue, falling from 18.6% of BASE Aid funding in FY 2018 to 15.3% in FY 2021.